

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JOHN J. CULLERTON, individually and)	
in his official capacity as President of the)	
Illinois Senate, and)	
MICHAEL J. MADIGAN, individually)	
and in his official capacity as Speaker of)	
the Illinois House of Representatives,)	
)	
Plaintiffs,)	
)	
v.)	No.
)	
PAT QUINN, Governor of the State of)	
Illinois, in his official capacity, and)	
JUDY BAAR TOPINKA, Comptroller)	
of the State of Illinois, in her official)	
capacity)	
)	
Defendants.)	

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Plaintiffs JOHN J. CULLERTON and MICHAEL J. MADIGAN, in their individual and official capacities, by and through their counsel, Special Assistant Attorneys General Richard J. Prendergast, Kevin Forde, Michael Kasper, Eric Madiar, and Heather Wier Vaught, and for their Complaint for Declaratory Judgment and Injunctive Relief, state as follows:

INTRODUCTION

1. Not since Governor Blagojevich attempted to reduce the salaries of Illinois judges in 2003 have the actions of the Executive Branch so threatened the independence of a co-equal branch of government. On July 10, 2013, Governor Pat Quinn exercised his line-item veto power on an appropriations bill by attempting to entirely eliminate General Assembly members' salaries, despite unmistakable Constitutional protection of those salaries. Just as the Illinois Constitution of 1970 protects the right of each judge to receive a salary and not have their salary

reduced during their term of office, the Constitution also requires that each legislator receive a salary and prohibits “changes” in the salaries of legislators during their terms of office. The Illinois Supreme Court invalidated Governor Blagojevich’s actions that threatened the independence and integrity of the Judiciary, and this Court should likewise invalidate Governor Quinn’s attempt to punish members of the General Assembly by completely eliminating their salaries.

2. When the Illinois Supreme Court invalidated Governor Blagojevich’s attempt to reduce the salaries of the Judicial Branch, it wrote: “For checks and balances to work properly in protecting individual liberty, each of the three branches of government must be kept free from the control or coercive influence of the other branches.” *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 299 (2004). Indeed, protecting either the Judicial or Legislative Branches of government from unwarranted intrusion by another branch is important not for the sake of those particular officers but for the people at large: “Avoiding the concentration of governmental powers in the same person or political body was seen by the founding fathers as essential to freedom and liberty.” *Id.*

3. That crucial safeguard has been jeopardized by Governor Quinn’s actions at issue in this lawsuit. If the Governor’s line-item veto is upheld, the independence of each member of the General Assembly will be forever compromised. Any Governor will hold a trump card over a co-equal branch of government, attempting to bend the members of the General Assembly to his or her will with the threat of eliminating their salaries, which for some legislators is their only source of income. In this particular instance, Governor Quinn has stated that his dispute with the General Assembly is over the lack of pension reform legislation. Next time, it may be gun control or abortion rights or tax policy. If the Governor’s actions are sustained, there will be no

limit to the oppression the Governor could assert over members of the Legislative Branch, irrevocably altering the separation of powers so carefully crafted by the framers of the Illinois Constitution of 1970.

4. By this action, Plaintiffs, the legislative leaders of the Illinois General Assembly, first seek a declaration that, in fact, the line-item veto to the appropriations bill in question did *not* eliminate legislative salaries as prescribed by, and thus Comptroller Topinka should be required to pay those salaries based on the plain language of the appropriations bill and based on Illinois law. Second, and in the alternative, if the Court were to determine that the Governor's line-item veto did, in fact, eliminate legislative salaries, Plaintiffs seek both a declaration that the line-item veto violated the Illinois Constitution of 1970 and an injunction ordering Comptroller Topinka to pay legislative salaries to remedy that constitutional violation.

JURISDICTION AND VENUE

5. Jurisdiction is proper pursuant to Section 2-701 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-701, because an actual controversy exists between Plaintiffs and Defendants involving the construction of the Illinois Constitution of 1970 and Illinois state law.

6. Venue is proper pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, because some or all of the transaction giving rise to this lawsuit took place in the County of Cook and because each Defendant maintains a governmental office in the County of Cook.

PARTIES

7. Plaintiff JOHN J. CULLERTON is the duly elected State Senator for the 6th Legislative District and President of the Illinois Senate for the 98th General Assembly. He is a resident of the City of Chicago, County of Cook, State of Illinois.

8. Plaintiff MICHAEL J. MADIGAN is the duly elected State Representative for the 22nd Representative District and Speaker of the Illinois House of Representatives for the 98th General Assembly. He is a resident of the City of Chicago, County of Cook, State of Illinois.

9. Defendant PAT QUINN (the "Governor") is the Governor of the State of Illinois and is charged with the responsibility to uphold and comply with the requirements of the Constitution of the State of Illinois.

10. Defendant JUDY BAAR TOPINKA is the Comptroller of the State of Illinois and is charged with the responsibility to uphold and comply with the requirements of the Constitution of the State of Illinois, including ordering payments to each legislator for the full salary to which he or she is entitled by law.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

11. Article II, § 1 of the Illinois Constitution of 1970 provides:

Section 1. Separation of Powers

The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.

12. Article IV, § 9(d) of the Illinois Constitution of 1970 provides (emphasis supplied):

Section 9. Veto Procedure

(d) The Governor may reduce or veto any item of appropriations in a bill presented to him. Portions of a bill not reduced or vetoed shall become law. An item vetoed shall be returned to the house in which it originated and may become law in the same manner as a vetoed bill. An item reduced in amount shall be returned to the house in which it originated and may be restored to its original amount in the same manner as a vetoed bill except that the required record vote shall be a majority of the members elected to each house. If a reduced item is not so restored, it shall become law in the reduced amount.

13. Article IV, § 11 of the Illinois Constitution of 1970 provides:

Section 11. Compensation and Allowances

A member shall receive a salary and allowances as provided by law, but changes in the salary of a member shall not take effect during the term for which he has been elected.

14. Article V, § 17 of the Illinois Constitution of 1970 provides:

Section 17. Comptroller—Duties

The Comptroller, in accordance with law, shall maintain the State's central fiscal accounts, and order payments into and out of the funds held by the Treasurer.

15. Section 1 of the General Assembly Compensation Act, 25 ILCS 115/1, provides in pertinent part (emphasis supplied):

Each member of the General Assembly shall receive an annual salary of \$28,000 or as set by the Compensation Review Board, whichever is greater. The following named officers, committee chairmen and committee minority spokesmen shall receive additional amounts per year for their services as such officers, committee chairmen and committee minority spokesmen respectively, as set by the Compensation Review Board or, as follows, whichever is greater: Beginning the second Wednesday in January 1989, the Speaker and the minority leader of the House of Representatives and the President and the minority leader of the Senate, \$16,000 each; the majority leader in the House of Representatives \$13,500; 6 assistant majority leaders and 5 assistant minority leaders in the Senate, \$12,000 each; 6 assistant majority leaders and 6 assistant minority leaders in the House of Representatives, \$10,500 each; 2 Deputy Majority leaders in the House of Representatives \$11,500 each; and 2 Deputy Minority leaders in the House of Representatives, \$11,500 each; the majority caucus chairman and minority caucus chairman in the Senate, \$12,000 each; and beginning the second Wednesday in January, 1989, the majority conference chairman and the minority conference chairman in the House of Representatives, \$10,500 each; beginning the second Wednesday in January, 1989, the chairman and minority spokesman of each standing committee of the Senate, except the Rules Committee, the Committee on Committees, and the Committee on Assignment of Bills, \$6,000 each; and beginning the second Wednesday in January, 1989, the chairman and minority spokesman of each standing and select committee of the House of Representatives, \$6,000 each. A member who serves in more than one position as an officer, committee chairman, or committee minority spokesman shall receive only one additional amount based on the position paying the highest additional amount. The compensation provided for in this Section to be paid per year to members of the General Assembly, including the additional sums payable per year to officers of the General Assembly shall be paid in 12 equal monthly installments. The first such installment is payable on January 31, 1977. All subsequent equal monthly installments are payable on the last working day

of the month. A member who has held office any part of a month is entitled to compensation for an entire month.

FACTS

16. On May 28, 2013, the Illinois House of Representatives passed House Bill 214, a bill that contains numerous appropriations for Fiscal Year 2014 beginning on July 1, 2013, including appropriations for salaries for members of the Illinois House of Representatives, the Illinois Senate, and the party leaders of the respective chambers. (A copy of the enrolled version of House Bill 214 is attached to this Complaint as Exhibit A.)

17. On May 31, 2013, House Bill 214 passed the Illinois Senate.

18. On June 4, 2013, House Bill 214 was sent to the Governor.

19. On July 10, 2013, the Governor exercised his power to line-item veto House Bill 214 pursuant to Article IV, Section 9(d) of the Illinois Constitution of 1970. The line-item veto eliminated lines 6 through 10 and 15 through 25 of Page 75 of House Bill 214 and lines 1 through 10 of Page 76 of House Bill 214. (A copy of the Governor's Message is attached to this Complaint as Exhibit B.)

20. In its "enrolled" form—that is, in the form it passed both Houses and was sent to the Governor—House Bill 214 was a 250-page appropriations bill. In Article 11, Section 15 of the enrolled version, found on pages 74 through 76, House Bill 214 provided, *inter alia*, for the salaries of members and officers of the General Assembly. A portion of the pertinent language is provided below, with the language *not* vetoed by the Governor in bold:

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(line)

(20)	Section 15. The following named sums, or so much thereof
(21)	as may be necessary, respectively, are appropriated to the
(22)	State Comptroller to pay certain officers of the Legislative
(23)	Branch of the State Government, at the various rates
(24)	prescribed by law:

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(line)

(5)	Officers and Members of General Assembly	
(6)	For salaries of the 118 members	
(7)	of the House of Representatives at	
(8)	a base salary of \$67,836	7,766,100
(9)	For salaries of the 59 members	
(10)	of the Senate at a base salary of \$67,836	<u>3,947,800</u>
(11)	Total	\$11,713,900
(12)	For additional amounts, as prescribed	
(13)	by law, for party leaders in both	
(14)	chambers as follows:	

(See Exhibit A, pp. 74-75.)

21. Immediately following the language quoted above, lines 15 through 25 of page 75, and lines 1 through 10 of page 76, itemized additional compensation for the party leaders—the Speaker and President, the majority and deputy majority leaders, caucus and conference chairs, committee chairs and minority spokespersons, etc. (See *id.*, pp. 75-76.) All of this language was vetoed by the Governor. (See Exhibit B.)

22. However, line 11 of page 76, totaling up the additional salary for various party leadership positions, was *not* vetoed by the Governor. Line 11 provided the total of this additional salary to party leaders as follows: “Total: \$2,138,800.” (See Exhibit A, p. 76.)

23. Following the Governor’s line-item veto of House Bill 214, in accordance with Article IV, § 9(d) of the Illinois Constitution of 1970, all remaining appropriations not vetoed by the Governor became law as Public Act 98-64.

24. For good measure, the Governor made it clear in his line-item veto message that, beyond those specific line items he vetoed, he “hereby approve[d] all other appropriation items in House Bill 214.” (See Exhibit B.) .

25. Defendant Topinka, acting in purported reliance on the Governor's line-item veto, has declined to issue current and future salary payments to legislators.

26. The 177 members of the General Assembly are currently receiving no salary for their office whatsoever.

27. The salary each Plaintiff is lawfully entitled to receive is an incident to title to the office of each Plaintiff as a duly elected member of the General Assembly. As such, Plaintiffs are entitled to salary irrespective of any service rendered and without regard to the fact that Plaintiffs may earn money elsewhere in private employment.

28. Plaintiffs, in their individual and official capacities, will suffer irreparable injury if the Governor's line-item veto, and Defendant Topinka's refusal to pay legislative salaries in accordance therewith, are not invalidated by this Court. Plaintiffs are the leaders of their respective legislative chambers under the Illinois Constitution and are charged with the duty and responsibility to protect that institution from unlawful encroachment by the Executive Branch. Every day that passes, with the salaries of Plaintiffs and other members of the General Assembly remaining unpaid and eliminated, is a threat to the independence of a co-equal branch of state government. Every day that the Executive's unwarranted intrusion into the Legislative Branch is allowed to stand is a day that the separation of powers, so carefully crafted by the framers of the Illinois Constitution of 1970, has been forever tarnished, and with it the liberties afforded to the citizenry, for whom the separation of powers was created in the first place.

29. For these same reasons, Plaintiffs have no adequate remedy at law.

30. Plaintiffs and all members of the Illinois General Assembly have a right to and are entitled to receive their full salary.

COUNT I: Relief Based on Violation of State Law

31. Plaintiffs re-assert and re-allege paragraphs 1 through 30 as if fully recited herein.

32. Plaintiffs are entitled to relief based on Public Act 98-64, following the Governor's line-item veto, and pursuant to the General Assembly Compensation Act.

33. The relevant language of Public Act 98-64, as it became law following the Governor's line-item veto, reads as follows:

Section 15. The following named sums, or so much thereof as may be necessary, respectively, are appropriated to the State Comptroller to pay certain officers of the Legislative Branch of the State Government, at the various rates prescribed by law:

Officers and Members of General Assembly

Total	\$11,713,900
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For additional amounts, as prescribed
by law, for party leaders in both
chambers as follows:

Total	\$2,138,800
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34. The language of Public Act 98-64 is sufficient to direct Defendant Topinka to issue payment of salaries to the members and party leaders of the General Assembly. Though the appropriation, in its final form, provides a lump-sum amount for payment of base salaries and a lump-sum amount for payment of additional salary to party leaders, the appropriation specifically references that the base salary paid to legislators shall be as "at the various rates as prescribed by law," and that additional amounts to party leaders shall be "as prescribed by law." The General Assembly Compensation Act, 25 ILCS 115/1, specifically provides for the amount of base salary and additional salary for party leadership. And that Act further provides that

“[t]he compensation provided for in this Section to be paid per year to members of the General Assembly, including the additional sums payable per year to officers of the General Assembly shall be paid in 12 equal monthly installments.” *Id.*

35. Defendant Topinka is thus provided specific and adequate direction, by Public Act 98-64 and the General Assembly Compensation Act, to pay legislative salaries on a monthly basis in specified amounts. Her refusal to do so is a violation of State law.

WHEREFORE, Plaintiffs respectfully pray for the following relief:

(a) That this Court declare that Public Act 98-64 authorizes the payment of salaries to Officers and Members of the Illinois General Assembly, notwithstanding the Governor’s line-item veto of portions of that legislation;

(b) That this Court enter an Order directing Defendant Topinka to pay members and officers of the Illinois General Assembly the full salaries to which they are entitled in accordance with Public Act 98-64 and the General Assembly Compensation Act, plus interest on any amounts that have been withheld; and

(c) That this Court order such other and further relief as the Court shall deem just.

COUNT II: Relief Based on Violation of Illinois Constitution

36. Plaintiffs re-assert and re-allege paragraphs 1 through 30 as if fully recited herein.

37. In the alternative, should this Court construe the Governor’s line-item veto of House Bill 214 as having effectively eliminated the salaries of members and officers of the General Assembly, this Court should invalidate the Governor’s line-item veto as a violation of the Illinois Constitution.

38. Pursuant to Article IV, Section 11 of the Illinois Constitution of 1970, “[a] member shall receive a salary and allowances as provided by law, but changes in the salary of a member shall not take effect during the term for which he has been elected.”

39. Salaries for legislators are established “as provided by law” in the General Assembly Compensation Act, 25 ILCS 115/1.

40. The Governor’s line-item veto of House Bill 214 deprives Plaintiffs of their right to receive a salary and constitutes a change in the salary of every member of the Illinois General Assembly during the current terms for which they have been elected.

41. The Governor’s line-item veto of House Bill 214, if construed by this Court to have eliminated, or in any way changed, the salaries of members and officers of the Illinois General Assembly, violates the Illinois Constitution.

WHEREFORE, Plaintiffs pray for the following relief:

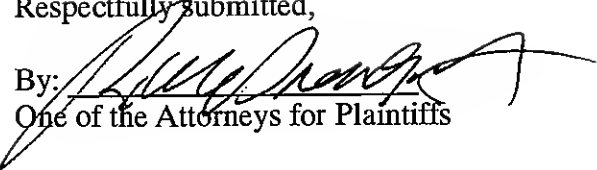
(a) That this Court declare that the Governor’s line-item veto of House Bill 214 violates Article IV, § 11 of the Illinois Constitution of 1970;

(b) That this Court declare that Public Act 98-64, if interpreted to eliminate or otherwise change the salaries of members and officers of the Illinois General Assembly, is in violation of Article IV, § 11 of the Illinois Constitution of 1970;

(c) That this Court enter an Order directing Defendant Topinka to pay members and officers of the Illinois General Assembly the full salaries to which they are entitled in accordance with the General Assembly Compensation Act, plus interest on any amounts that have been withheld; and

(d) That this Court order such other and further relief as the Court shall deem just.

Respectfully submitted,

By: 
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